

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ORDER 96-042

ORDER SETTING ADMINISTRATIVE CIVIL LIABILITY
PUREX INDUSTRIES, INC.
511 O'NEILL AVE
BELMONT, SAN MATEO COUNTY, CA 94402

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds that:

1. Purex Industries, Inc. is alleged to have violated Sections 13267, and 13268 of the California Water Code, by refusing to submit an addendum to a work plan as requested by the Executive Officer.
2. The following facts are the basis for the alleged violation(s) in this matter:
 - a. On October 11, 1988, trichloroethylene (TCE), trichloroethane (TCA), perchloroethylene (PCE), and cis-1,2 dichloroethylene (cis-1,2 DCE) were detected but not quantified in the groundwater beneath 500 Harbor Blvd (south and adjacent to the 511 O'Neill site) as part of an underground storage tank closure on the property. Ground water flow direction was measured to be in an easterly direction.
 - b. Groundwater in this area is considered to be a potential drinking water source. There are also several back yard irrigation wells located within the area as identified by the San Mateo Office of Environmental Health.
 - c. In 1990, groundwater collected from a monitoring well on the eastern property line at 500 Harbor Blvd contained 56,000 ppb of TCE. Furthermore, a hydropunch investigation was conducted at 500 Harbor Blvd. which showed a thin layer of floating product at the property line between 511 O'Neill Ave. and 500 Harbor Blvd. Groundwater samples were collected and analyzed which were found to contain 28,823,000 ppb of TCE, 586,000 ppb of DCE, 6,215,000 ppb Xylene, 2,583,000 Ethylbenzene, 14,000 ppb of Toluene, and total fuel hydrocarbons at 693,000 ppb. (Western Geo-Engineers (1990)).
 - d. The fuel hydrocarbons and BTEX constituents detected were attributed to the leaking underground fuel storage tanks located at the 500 Harbor

Blvd. site. However, there was no known source on the 500 Harbor site for the chlorinated solvents detected. Therefore, the property owner Mr. David Lake of the 500 Harbor Blvd. site suspected that the solvents may have come from an offsite source. Mr. Lake retained an environmental consultant to examine possible offsite sources within the area.

- e. In 1992, a Phase I Environmental Site Assessment for 500 Harbor Blvd was conducted by Green Environmental. The investigation found that the adjacent site located at 511 O'Neill Ave site was a potential source, due to the fact that a solvent recycling facility had once been located on the property.
- f. Past records indicate that prior to 1970, Baron Blakeslee Corporation operated a solvent recycling facility on the 511 O'Neill site. After lengthy discussions, Board Counsel has determined that Purex Industries, Inc., is the successor in interest regarding this site and is responsible for investigation and remediation of the site.
- g. Based upon the past operations and the type of constituents used at the 511 O'Neill site, on March 8, 1995, Regional Board staff issued a technical report request under 13267 of the California Water Code to Purex Industries Inc. requesting a work plan to perform a soil and groundwater investigation at the site, to determine whether the site was a source area for the volatile organic compounds (VOC's) found at the 500 Harbor Blvd. site.
- h. Purex Industries submitted a work plan dated April 11, 1995.
- i. Board staff found the Purex Industries, Inc. workplan to be deficient, in that the amount of soil borings proposed were insufficient to fully characterize the site. On May 8, 1995 Board staff sent a technical report request to Purex Industries Inc. requesting an addendum to the April 11, 1995 workplan.
- j. On June 16, 1995, a letter was sent to Purex Industries notifying Purex that they were out of compliance and again requested that the workplan addendum be submitted by June 30, 1995.
- k. On July 18, 1995, a notice of violation was issued to Purex Industries for failure to submit the workplan addendum as requested. The addendum has never been received.
- l. Purex Industries, Inc. refused to comply with the Board staff requests for an addendum, apparently on the grounds that Purex Industries, Inc.

believed that Allied Signal should also be named as a responsible party. Board staff referred the case to Board counsel for determination. Board counsel determined that Purex should be named as a party responsible for submission of technical reports pursuant to Water Code section 13267. After repeated attempts by Board Staff to acquire an addendum to Purex Industries, Inc. workplan, they still refused on the same grounds stated above. On July 25, 1995 Board Counsel issued a memorandum of liability naming Purex Industries, Inc. as a primary responsible party. In a letter dated September 9, 1995 Purex still refused to acknowledge the ruling.

- m. On November 7, 1995, a meeting was held with Purex Industries, Inc. in which both Board staff and Board Counsel were present. Legal counsel for Purex Industries, Inc. was given the opportunity to explain its position and submitted additional information to support why they should not be named a responsible party. On November 21, 1995, Board staff and Board Counsel met with Allied Signal's counsel to allow them the same opportunity to present their position on why they should not be named a responsible party. Based upon the previous information submitted and information presented by both parties during these meetings, Board counsel again made a determination regarding Purex's liability under Water Code 13267 as a successor in interest to the liabilities of Baron Blakeslee of California, Purex Corporation of California, and TP Industries. By memorandum of December 5, 1995 the Board's legal counsel again found Purex Industries, Inc. to be a primary responsible party and that Allied Signal was not.
- n. On December 7, 1995 a letter was sent to Purex Industries, Inc. once again informing them that the determination had been made and that they were a responsible party, and requested an addendum to the April 11, 1995 workplan by December 20, 1995. As of the issuance of this complaint the addendum has not been submitted.
- o. A complaint (Complaint No. 96-014) was issued on January 24, 1996 to Purex Industries Inc. which outlined the alleged violation and the assessment of administrative civil liability in the amount of \$29,600. The penalty was assessed from December 21, 1995 to January 15, 1996. This time period accounted for the time after our third formal request for the workplan addendum until the preparation of the complaint.
- p. A hearing was held before the Regional Water Quality Control on February 21, 1996. At the hearing, Board staff requested the penalties be increased to \$63,000 to include the additional 37 days of violation (from January 15, 1996 to February 21, 1996) which had elapsed since

the original issuance of the complaint. Purex Industries Inc. and Allied Signal both provided testimony supporting their positions.

- q. The Board made a motion to continue the hearing until the next scheduled hearing date, March 20, 1996 in order to amend the imposed administrative civil liability to \$236,000 to include the additional days of violation starting July 1, 1995, the date the workplan addendum was due. The additional \$173,000 is to be suspended if Purex Industries Inc. submits an adequate workplan as requested before the March 20, 1996 Board meeting.
3. This Order imposes a civil liability of \$236,000 of which \$173,000 is to be suspended if an adequate workplan is submitted before the March 20, 1996 hearing and is implemented and the results submitted within 45 days after the hearing date. The increase in liability, compared to the original amount recommended in the Complaint, is due to an additional 210 days of violation between Complaint issuance and the date of adoption of this order.
4. The Board has fully considered the factors set forth for determination of the amount of civil liability set forth in the California Water Code Section 13327.
5. This action is an order to enforce the laws and regulations administered by the Board. This action is categorically exempt from the provisions of CEQA pursuant to Section 15321 of the Resources Agency Guidelines.

IT IS HEREBY ORDERED, PURSUANT TO THE CALIFORNIA WATER CODE SECTION 13268, that Purex Industries, Inc., is civilly liable for this violation and shall pay administrative civil liability in the amount of \$236,000 of which \$173,000 is to be suspended if an adequate workplan is submitted before the March 20, 1996 hearing and is implemented and the results submitted by May 4, 1996 or a subsequent date as approved by the Board. The \$63,000 liability shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Order. The remaining liability in the amount of \$173,000, if not suspended as described herein, shall be paid to the State Water Pollution and Abatement Account within 30 days of the date of a demand letter requesting payment issued by the Executive Officer. I, Loretta Barsamian, Executive Officer, do hereby certify that the foregoing is a full, complete, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on March 20, 1996.



Loretta Barsamian
Executive Officer